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Attorneys for United States of America

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

REAL PROPERTY AND
IMPROVEMENTS LOCATED AT 1840
EMBARCADERO, OAKLAND,
CALIFORNIA,

Defendant.

CV 12 3567

COMPLAINT FOR FORFEITURE

In this *in rem* forfeiture action, the United States alleges:

JURISDICTION AND VENUE

1. This *in rem* forfeiture action is brought pursuant to Title 21, United States Code, Section 881(a)(7).

2. This Court has jurisdiction under Title 28, United States Code, Sections 1345 and 1355.

3. Venue lies in the Northern District of California pursuant to Title 28, United States Code, Sections 1355(b) and 1395(a) and (b), as the acts giving rise to this *in rem* action occurred in this district and the defendant real property is located in this district.

4. Intra-district venue is appropriate in either San Francisco or Oakland.

PARTIES AND INTERESTED PERSONS

5. Plaintiff is the United States of America.

6. Defendant is the real property located at 1840 Embarcadero, Oakland, California, Alameda County, identified by assessor's parcel number ("APN") 019-0048-003, and further described in Attachment A, affixed hereto and incorporated herein ("defendant real property").

The defendant real property is a low-rise, multi-tenant commercial building with on-site parking.

The defendant real property is the business address for Patients Mutual Assistance Collective Corporation doing business as Harborside Health Center ("Harborside"), a retail marijuana store and is also the business address for ABC Security Service, Inc., ("ABC").

7. According to the lien report issued by LSI Title Company, Ana Chretien is the sole owner of record for the defendant real property. The lien report also reflects a deed of trust to secure indebtedness in the amount of \$1,861,000.00 and a \$200,000.00 equity line or other revolving line of credit was recorded in the Alameda County Recorder's Office on July 25, 2008, for the benefit of Summit Bank.

8. Harborside and/or Patients Mutual Assistance Collective Corporation are believed to have a leasehold interest in the defendant real property.

FACTS

9. Plaintiff incorporates by reference the allegations of paragraphs one through eight as though fully set forth herein.

10. At all times relevant in this complaint, the defendant real property was the business location of Harborside, a retail marijuana store which distributes marijuana, and

1 facilitates the distribution of marijuana, to its customers and accepts money for the distribution
2 of said marijuana. Harborside operates its marijuana business out of the defendant real property.

3 11. Upon information and belief, in 2006 Harborside sought and obtained a permit to
4 distribute marijuana at the defendant real property.

5 12. Since at least 2006 and continuing to the present, Harborside has operated a
6 marijuana retail store engaged in the distribution of marijuana at the defendant real property.

7 13. Steven DeAngelo and David Wedding Dress are the co-founders and co-owners of
8 Harborside. Steven DeAngelo is also believed to be the Chief Executive Officer of Patients
9 Mutual Assistance Collective Corporation – the entity which owns and operates Harborside.
10 Andrew DeAngelo is the general manager at Harborside.

11 14. ABC provides security to the parking lot that Harborside shares with ABC.

12 15. Ana Chretien is the President and Chief Executive Officer of ABC, and her
13 business address is located at the defendant real property.

14 16. Harborside purports to be the largest retailer of marijuana on the planet, serving in
15 excess of 100,000 customers.

16 17. Harborside claims that its annual gross sales revenues are in excess of \$20
17 million.

18 18. According to Harborside's website - (www.HarborsideHealthCenter.com), its
19 hours of operation are 10:00 a.m. to 8:00 p.m., seven days a week.

20 19. According to Harborside's website, it offers for sale marijuana in various forms
21 including "Flowers"; "Concentrates" of marijuana; "Edible" marijuana; "Topicals" containing
22 marijuana; and Marijuana "Seeds/Clones".

23 20. Harborside is operating in violation of federal law.

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CLAIM FOR RELIEF**21 U.S.C. § 881(a)(7)****(Forfeiture of property used to facilitate cultivation, sale or distribution of marijuana)**

21. The United States incorporates by reference the allegations in paragraphs one through 20 as though fully set forth.

22. Title 21, United States Code, Section 841(a) prohibits the manufacture, distribution, or dispensing, and possession with the intent to manufacture, distribute, or dispense a controlled substance, to wit: marijuana.

23. Title 21, United States Code, Section 856 makes it unlawful to rent, lease, profit from or make available for use, with or without compensation, a place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance, to wit: marijuana.

24. Title 21, United States Code, Section 881(a)(7) provides for the forfeiture of all real property, including any right, title, and interest, including but not limited to any ownership, lien holder, or leasehold interest, which is used or intended to be used, in any manner or part to commit, or facilitate the commission of any violation of Title 21, United States Code, Chapter 13, Subchapter I, to include sections 841 and 856.

25. In light of the foregoing, plaintiff alleges that the defendant real property is subject to forfeiture, pursuant to Title 21, United States Code, Section 881(a)(7), as property which was used or intended to be used, to commit or facilitate the commission of the distribution, cultivation and possession with the intent to distribute and cultivate marijuana.

26. With respect to the defendant real property, the United States has not seized said property. Rather, the United States will, as provided in Title 18, United States Code, Sections 985(b)(1) and (c)(1):

- a. Post notice of this action and a copy of this Complaint for Forfeiture at the defendant real property;
- b. Serve notice of this action together with a copy of the Complaint for Forfeiture and related documents, on the owners of record of the defendant real property; and

- c. Record a *lis pendens* in the county records to demonstrate the status of the defendant real property in this *in rem* action.

WHEREFORE, plaintiff United States of America requests that due process issue to enforce the forfeiture of the defendant real property; that notice be given to all interested parties to appear and show cause why forfeiture should not be decreed; that the Court enter judgment for forfeiture of the defendant real property to the United States; and that the United States be awarded such other relief as may be proper and just.

Respectfully submitted,

MELINDA HAAG
United States Attorney

Dated: 7/6/2012


ARVON J. PERREET
Assistant United States Attorney

VERIFICATION

I, DAVID WHITE, state as follows:

1. I am a Special Agent with the United States Department of Justice, Drug Enforcement Administration. As the agent assigned to this case I am familiar with the facts and investigation leading to the filing of this Complaint for Forfeiture.

2. I have read the Complaint, and based upon my personal knowledge, discussions with persons involved in the investigation and my review of relevant investigative reports and other documentation, I believe the allegations contained in it to be true.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 6 day of July, 2012 in San Francisco, California.



DAVID WHITE
Special Agent
Drug Enforcement Administration

ATTACHMENT A

LEGAL DESCRIPTION

REAL PROPERTY in the City of Oakland, County of Alameda, State of California,
described as follows:

Lot 1, Parcel Map 6349, Filed January 3, 1997, Map Book 229, Page 23 & 24,
Alameda County Records

A.P.N. 019-0048-001-01 (portion)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Arvon J. Perle AUSA

450 Golden Gate Avenue, 11th Floor

San Francisco, CA 94102 415-436-6598

DEFENDANTSREAL PROPERTY AND IMPROVEMENTS LOCATED AT 1840
EMBARCADERO, OAKLAND, CALIFORNIA

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

EDL
E-filing**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 21, United States Code, Section 881(a)(7)

Brief description of cause:
Drug Related Forfeiture**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE☐ EUREKA

DATE

7/6/2012

SIGNATURE OF ATTORNEY OF RECORD